IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 448 OF 2005

IN

SUIT NO.1203 OF 2005

Marshil Marine Ltd., .. Plaintiffs.

vs.

Bhavi International Ltd., .. Defendants.

Mr. B.B. Saraf i/by A Mehta Laljee & Co.
for the plaintiffs.
Ms. Rina Punjara i/by Manesh Shah & Co.
for defendants.

CORAM : S.U.KAMDAR, J.

DATE : 9th January,2006.

P.C.

. The present suit is filed on bills of lading which are at Exhibits A and B to the plaint. The claim in the present suit is for recovery of freight charges. Neither the contract providing for claim of freight charge nor the invoice raised in respect of freight charge is forming part of the plaint. The bill of lading is merely a document of title of goods which are handed over for the purpose of carriage as provided under the Carriage by See Act.

The bill of lading by itself does not raise any claim in respect of the freight charges due and payable by the party who has given goods for the purpose of transportation. In the absence of any contract for the purpose of providing for freight charges or transportation charges or invoice indicating the amount due and payable towards the freight charges in my opinion, the suit is not maintainable as a summary suit under Order 37 Rule 2 of CPC. In that light of the matter, unconditional leave to defend is granted. Summons for judgment is dismissed. Summons for judgment is dismissed accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from today. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.